

1999 DRAFTING REQUEST**Bill**Received: **03/17/99**Received By: **champra**Wanted: **Soon**

Identical to LRB:

For: **Scott Jensen (608) 266-3387**By/Representing: **R.J. Pirlot**This file may be shown to any legislator: **NO**Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - employee benefits**
Employ Pub - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Social security coverage for students employed at certain educational institutions

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	champra 03/18/99	ygeller 03/18/99	martykr 03/18/99	_____	lrb_docadmin 03/18/99	lrb_docadminS&L 03/22/99	

FE Sent For:

05-06-99

<END>

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/?	champra	1 3/18 jlg	1 3/14	1 1/4	3		

FE Sent For:

<END>

LEGISLATIVE REFERENCE BUREAU

Legal Section, 5th Floor, 100 N. Hamilton St.
(608) 266-3561

BILL REQUEST FORM

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: 3/16/99	Legislator or agency requesting this draft: SCOTT JENSEN
Name/phone number of person submitting request: R.J. PIRCOT 1-9482	
Persons to contact for questions about this draft (names and phone numbers please): R.J. PIRCOT 1-9482 Ben Griffiths (legal counsel) 3-7400	
Describe the problem, including any helpful examples. How do you want to solve the problem? see attached	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? ☒ YES ☐ NO

If yes, anyone who asks? ☒ YES ☐ NO

Any legislator? ☐ YES ☐ NO ☐ ONLY the following persons:

Do you consider this urgent? ☐ YES ☒ NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

☐ YES ☒ NO If yes, please sign your name here:



University of Wisconsin-Madison

Administrative Legal Services

361 Bascom Hall, 500 Lincoln Drive
University of Wisconsin-Madison
Madison, WI 53706-1380
608-263-7400
Fax: 608-263-4725

FAX TRANSMISSION COVER SHEET

CONFIDENTIAL

Date: 3/17/99 Time: 3:00
To: Mr. Rich Champagne
Fax: 4-8522
Re: 218 agreement / FICA legislation
Sender: Ben Griffiths

YOU SHOULD RECEIVE 11 PAGE(S), INCLUDING THIS COVER SHEET. IF
YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL 608-263-7400

The information in this facsimile message is intended only for the personal and confidential use of the designated recipients named above. This message may be an attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient or any agent responsible for delivering it to intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of the message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.

Comments: Please give me a call if you have
any questions (5-5266). Thanks,

Ben

cc: Ben Krufftles

**RECEIVED**
MAR - 8 1999
EMPLOYEE TRUST FUNDS

Social Security Administration

Office of the Regional Commissioner
P. O. Box 8280
Chicago, Illinois 60680-8280Refer to:
S2D5B52

March 5, 1999

Ms. Jean Gilding, Director
Social Security Administrator
Department of Employee Trust Funds
P.O. Box 7931
Madison, Wisconsin 53707

Dear Ms. Gilding:

We are enclosing one copy of executed Modification No. 751 of the coverage agreement entered into between the State of Wisconsin and the Commissioner of Social Security under Section 218 of the Social Security Act, as amended. This modification was executed pursuant to authority delegated by the Commissioner.

As provided under Public Law 105-277, the purpose of this modification is to exclude student services covered under the State's agreement of June 13, 1951. This modification is contingent upon enactment of State legislation, prior to July 1, 2000. Therefore, our office must receive a copy of the enacted legislation prior to that date.

Sincerely,

Donna Mukogawa
Assistant Regional Commissioner
Management and Operations Support

RECEIVED

MAR 13 1999

MAR 13 1999

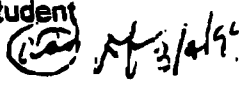
MODIFICATION TO EXCLUDE STUDENT SERVICES ON A STATEWIDE BASIS**MODIFICATION NO. 751****TO WISCONSIN STATE SOCIAL SECURITY AGREEMENT**

The Commissioner of Social Security and the State of Wisconsin, acting through its representative designated to administer its responsibilities under the agreement of June 13, 1951, hereby accept the following amendments to said agreement.

Paragraph B, section (6) of said agreement related to services covered is amended by deleting the words "student or" so that the paragraph, as revised, will read:

Services performed by a member of a board or commission, except members of governing bodies, in a position or office which does not normally require actual performance of duty for at least 600 hours in each year.

Paragraph B of said agreement related to services covered is amended by adding to the list of excluded services the following new paragraph:

Effective after June 30, 2000, except as stated below, services performed in the employ of a school, college or university if such service is performed by a student who is enrolled ~~and~~ regularly attending classes at such school, college or university for all coverage groups of the State and its political subdivisions currently (as of the date this modification is executed) included under this agreement and to which the agreement is hereafter made applicable. 

This modification of the agreement of June 13, 1951, to exclude student services is contingent upon enactment of State legislation, prior to July 1, 2000, establishing the State's authority to exclude the student services which are the subject of this modification. The modification shall be effective only to the extent that State law establishes the authority of the State to exclude student services by June 30, 2000.

Page 2

Approved for the State of Wisconsin this 8th day of February, 1999.

Signed



Jean E. Gilding, Director
Social Security Administrator
Wisconsin Department of Employee Trust Funds

Approved



Eric Stanchfield, Secretary
Wisconsin Department of Employee Trust Funds

Approved this 5th day of March, 1999.

COMMISSIONER OF SOCIAL SECURITY

By



Assistant Regional Commissioner
Management and Operations Support

TOTAL P.02

February 9, 1999

TO: Mr. Dale Ferron
Department of Employee Trust Funds
State of Wisconsin

Subject: Wisconsin Student Modification

As previously discussed, an amendment needs to be made to remove student services covered under Section (B)(6) of the State's Section 218 Agreement. You also informed this office that State legislation is required before the State can execute a modification to take the student services exclusion allowed under Public Law 105-277. However, the State will not be able to enact the legislation prior to March 31, 1999. We discussed this situation with our Office of the General Counsel. Accordingly, the following modification language should be used:

Section B of said agreement related to services covered is amended by adding to the list of excluded services the following new paragraph:

Effective after June 30, 2000, *except as stated below*, services performed in the employ of a school, college or university if such service is performed by a student who is enrolled and regularly attending classes at such school, college or university for all coverage groups of the State and its political subdivisions currently (as of the date this modification is executed) included under this agreement and to which the agreement is hereafter made applicable.

This modification of the agreement of (date of original agreement) to exclude student services is contingent upon enactment of State legislation, prior to July 1, 2000, establishing the State's authority to exclude the student services which are the subject of this modification. The modification shall be effective only to the extent that State law establishes the authority of the State to exclude student services by June 30, 2000.

If you have any questions concerning the above, please call me (410-965-7948).


Judy Sobus
State and Local Coverage, DCS, OPE

cc:
Darryl Swain
Chicago Regional Office

20/20 P.02 14 966 9214

OPE/DCS

FEB-09-1999 11:14

RECEIVED AT: 10:15AM, 2/9/1999

**STATE OF WISCONSIN****Department of Employee Trust Funds****Eric O. Stanchfield**
*Secretary**801 West Badger Road**P.O. Box 7931**Madison, WI 53707-7931*

February 10, 1999

**DARYL SWAIN
SSA REGIONAL OFFICE
ATTN: RSI/SSI
10 TH FLOOR
P O BOX 8280
CHICAGO IL 60680-8280****RE: Section 218 Agreement Student Modification**

Dear Mr. Swain:

I am enclosing a modification to the State of Wisconsin's Section 218 Agreement which will allow the State of Wisconsin to take advantage of an opportunity provided in Section 2023 of Public Law 105-277 to exclude students employed by the public school they attend from Social Security coverage.

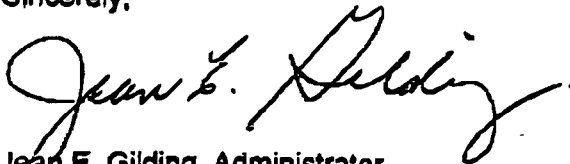
In order for Wisconsin to take advantage of the full student exclusion, it is necessary to modify Section B.6. of our Section 218 Agreement in addition to adding the language recommended by the Social Security Administration in their November 1998 Informational Release. Section B.6. of Wisconsin's Section 218 Agreement already provides a partial exclusion for students working less than 600 hours. Therefore, it is necessary to remove the words "student or" from Section B.6. in order for Wisconsin to have the same opportunity as other States to fully exempt students employed by the public school they attend.

I sought advice from the SSA's Baltimore, MD legal office to determine if the SSA would allow a revision to Section B.6. In a letter dated November 25, 1998 (copy enclosed) from Hugh Meade, Division of Coverage and Support Director, Mr. Meade states, "We concur that removing the words 'student or' would not produce a result inconsistent with the legislation..." I also sought advice from the SSA's Baltimore, MD office on the appropriate language to use in this modification, as Wisconsin is in the process of making the necessary statutory changes, but this will not be completed by March 31, 1999. In response to my request for appropriate language, Judy Sobus with SSA's Division of Coverage and Support supplied me with language drafted by SSA's legal office, in a letter dated February 9, 1999 (copy enclosed). I have incorporated this language into the modification.

Mr. Daryl Swain
February 10, 1999
Page 2

Enclosed is the modification for your review and approval. Thank you for your considerations and please call me if you have any questions.

Sincerely;

A handwritten signature in cursive script, appearing to read "Jean E. Gilding".

Jean E. Gilding, Administrator
Division of Employer Services
(608) 266-1210
FAX: (608) 266-5801
TTY: (608) 267-0676

Cc: Larry Alt, Madison Office

Enclosures

**SOCIAL SECURITY**

November 25, 1998

RECEIVED**NOV 30 1998****EMPLOYEE TRUST FUNDS**

Ms. Jean E. Gilding, Administrator
Division of Employer Services
Department of Employee Trust Funds
State of Wisconsin
P.O. Box 7931
Madison, WI 53707-7931

Dear Ms. Gilding:

This is in response to your letter dated 11/18/98 to Judy Sobus of my staff concerning the student exclusion provision under Public Law 105-277. This legislation provides a limited window of time for States to modify their existing Section 218 agreements to exclude from Social Security coverage services performed by students employed by the public school they are attending.

Specifically, you asked if the State is permitted to modify the part-time exclusion under Section B(6) of the State's 218 Agreement to remove students. Section B(6) excludes:

"services performed by a student or member of a board or commission except members of governing hodies, in a position or office which does not normally require actual performance of duty for at least 600 hours in each year."

Therefore, services rendered by a student are only excluded if they are rendered in a part-time position normally requiring less than 600 hours each year even though they are performed for the school in which the student is enrolled and regularly attending classes.

In view of the foregoing, we concur that removing the words "student or" would not produce a result inconsistent with the legislation which permits excluding student services without terminating the coverage of other State and local government employees in the same coverage group.

2

You also asked if the State is permitted to execute a modification that would re-define the part-time exclusion. If the State's re-definition would broaden the scope of the exclusion previously taken (i.e., permit more individuals to be excluded from Social Security coverage), the application of such a definition would not be permissible. If the re-definition would expand Social Security coverage, the State may submit the proposed modification for review and SSA will make a formal determination in writing.

We hope this information is helpful. If you have further questions concerning the above information, please telephone Judy Sobus at 410-965-7948.

Sincerely,



Hugh Meade, Director
Division of Coverage and Support
Office of Program Benefits

44-001

**The University of Wisconsin System**

University Human Resources
Staff Benefits & Payroll Policy
780 Regent Street
P.O. Box 8010
Madison, Wisconsin 53708-8010
(608) 263-4375 FAX (608) 265-9834

RECEIVED
DEC 23 1998
EMPLOYEE TRUST FUNDS
OFFICE OF THE SECRETARY

December 21, 1998

Mr. Dave Mills
Department of Employee Trust Funds
801 West Badger Road
Madison, WI 53713

Dear Mr. Mills:

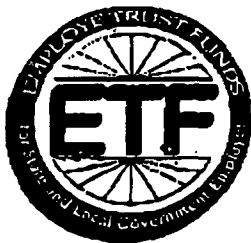
The Board of Regents of the University of Wisconsin System hereby respectfully requests the Department of Employee Trust Funds to seek a modification of the State's section 218 agreement so as to replace the current part-time (600 hour) exclusion for student services with the statutory exclusion for services performed by students employed by the public school they are attending. As you know, States were given the opportunity to make this modification pursuant to section 2023 of Public Law 105-277. This modification must be made prior to March 31, 1999.

I have taken the liberty of preparing the requested modification to the 218 agreement, which is enclosed with this letter. Please note that the effective date of the modification is June 30, 2000. We will need to get sec. 40.41(5)(b) of the State statutes revised to reflect this modification at some point before June 30, 2000.

The University very much appreciates your assistance with this important matter. If you have any questions, please do not hesitate to call me at 263-9403.

Sincerely,


Sue Chamberlain

**STATE OF WISCONSIN****Department of Employee Trust Funds**

Eric O. Stanchfield
Secretary
801 West Badger Road
P.O. Box 7931
Madison, WI 53707-7931

January 15, 1999

Ms. Sue Chamberlain
University of Wisconsin System
Staff Benefits and Payroll Policy
780 Regent Street
P.O. Box 8010
Madison, WI 53708-8010

Re: Section 218 Agreement Modification

Dear Ms. Chamberlain:

This letter acknowledges receipt of the University of Wisconsin System's (UW) request to seek a modification to the State of Wisconsin's Section 218 Agreement with the Social Security Administration. Specifically, the UW has requested that the Section 218 Agreement be modified to take advantage of an opportunity provided in Section 2023 of Public Law 105-277 to allow a full exclusion from Social Security coverage for students employed by the public school they attend. Currently, the Section 218 Agreement has a "partial" exclusion for students working less than 600 hours in a given year.

I asked Jean Gilding, the State's designated Social Security Administrator, to review the proposed language that you submitted with your request for modification. Jean had indicated that your suggested modification language is appropriate and she is preparing the necessary paperwork to accompany the modification request to the Social Security Administration. I have also asked Jean to work with you in pursuing the necessary changes to Wis. Stat. §40.41(5)(b).

Please feel free to contact Jean directly at 266-1210.

Sincerely,

Dave Mills
Deputy Secretary
(608) 266-3641
FAX# (608) 267-0633
TTY# (608) 267-0676

cc: Jean Gilding, ETF
Pam Henning, ETF

(4) Except as provided in sub. (6), all state employees, all teachers, the participating employees of all participating employers under the Wisconsin retirement system and all employees who would have become a participating employee of a participating employer except for the requirement of s. 40.22 (6) shall be included under OASDHI, notwithstanding sub. (1).

(5) Except as provided in sub. (6), employees under any retirement system included in whole or in part under OASDHI, prior to the effective date of this section (1981), under a referendum or a choice held in conformity with section 218 (d) (3) or 218 (d) (6) of the federal social security act, shall continue to be included under OASDHI in accordance with the results of the referendum or choice, notwithstanding sub. (1).

(6) The following services shall be excluded from OASDHI coverage, and subsequent modifications of the state-federal agreement shall continue to provide for their exclusion:

(a) Services performed by persons or in positions not eligible for inclusion under federal regulations. Any exclusion under this paragraph shall not continue if federal regulations are subsequently modified to include the services.

(b) Services of a student for a school or other education system in which the student is regularly enrolled and attending classes if the services are incidental to the person's course of study at that education system.

(c) Services as a member of a board or commission, other than the governing body of an employer for which the service is performed, when the service does not normally require actual performance of duty for more than 600 hours in each year. For purposes of this paragraph, a "board" or "commission" is a body referred to in the statutes as a board or commission.

(d) Services of an employee whose participating employment in a position covered by a specific retirement system is not covered by OASDHI by reason of eligibility for a choice provided by statute prior to the effective date of this section (1981), but only with respect to services in a position covered by that retirement system.

(e) Services in police and fire fighter positions under a retirement system except:

1. If the services were covered under the federal OASDHI system under this section prior to the effective date of the retirement system coverage.

2. If the services have been covered under the federal OASDHI system under section 218 (m) of the federal social security act.

(f) Services in a position eligible for participation in the Wisconsin retirement system only by virtue of s. 40.22 (1) (a). This exclusion does not apply to any employee who is a teacher, who is a participating employee in the Wisconsin retirement system or whose employer has adopted a resolution under sub. (1).

SUBCHAPTER IV HEALTH CARE BENEFITS

40.51 Coverage. (1) The procedures and provisions pertaining to enrollment, premium transmitted and coverage of eligible employees for health care benefits shall be established by contract or rule except as otherwise specifically provided by this chapter.

(2) Any eligible employee may become covered by group health insurance by electing coverage within 30 days of being hired, to be effective as of the first day of the month which begins on or after the date the application is received by the employer, or by electing coverage prior to becoming eligible for employer contribution towards the premium cost to be effective upon becoming eligible for employer contributions. Any employee who does not so elect at one of these times, or who subsequently cancels the insurance, shall not thereafter become insured unless the employee furnishes evidence of insurability satisfactory to the insurer, at the employee's own expense or obtains coverage subject to contractual waiting periods. The method to be used shall be specified in the health insurance contract.

Wisconsin Student FICA Drafting Issues

The intent of the proposed legislation is to change the language in the Wisconsin Statutes which addresses the social security (FICA) taxation of student employees of state educational institutions. Sec. 1023 of Public Law 105-277, enacted 10/21/98, provides states with a one-time window of opportunity to modify their agreements with the Social Security Administration (218 agreements) so as to exclude from Social Security coverage those students employed by the public school, college or university where they are regularly attending classes. A Social Security Informational Release describing the issue is attached as Exhibit A.

Wisconsin has submitted a modification to the 218 agreement as provided by P.L. 105-277. However, state law must be changed to make it consistent with the modified 218 agreement before the modification becomes effective. Sec. 40.41(6)(b), Stats., reflects the unmodified language in the 218 agreement regarding student services, and accordingly it needs to be revised in order for the modification to become effective.

It appears that two specific statutory changes are needed to accomplish our goal: Sec. 40.41(6)(b) needs to be revised to eliminate the words "a student or" in the first line, and a new provision under 40.41(6) needs to be enacted which reflects the modified 218 agreement. The language in the new section should parallel 42 USC 410(a)(10)(A) and 26 USC 3121(b)(10)(A), attached as Exhibit B, which read:

Service performed in the employ of a school, college or university, if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university.

Please note that the Wisconsin Legislature has already made this change once before, as part of the 1981 Wisconsin Retirement System merger bill, only to have the federal government reject the change due to a conflict with the 218 agreement. See, Chapter 96, Laws of 1981, which repealed and recreated subchapter III of Chapter 40. The changes to sec. 40.41(6) that we are now seeking should closely parallel ss. 40.41(6)(b) and (c) as repealed and recreated by of Chapter 96, Laws of 1981 (although we would prefer the indented language, above, to the language in sec. 40.41(6)(b) as it was revised in 1981).

As a result, section 13 of 1987 Wisconsin Act 372 consolidated ss. 40.41(6)(b) and (c), renumbered them as sec. 40.41(6)(b), and amended them to their current language. Please note that currently there is no sec. 40.41(6)(c), so this might make a logical resting place for the new provision.



Informational Release

STATE AND LOCAL COVERAGE HANDBOOK

for the
Social Security Administration
& State Social Security Administrators

NO. 7

DATE: November 1998

SPECIAL NOTICE

Exclusion of Students Covered Under Section 218 Agreements

Section 2023 of Public Law 105-277, enacted on October 21, 1998, provides a limited window of time for States to modify their existing Social Security coverage agreements to exclude from Social Security coverage services performed by students employed by the public school, college or university where they are regularly attending classes. If a State exercises its option to take this exclusion, it will be effective with respect to services performed after June 30, 2000. This legislation provides an exception to the general rule that once services of certain groups of employees have been covered, they cannot later be excluded from coverage. Section 2023 reads as follows:

"Exemption for Students Employed by State Schools, Colleges, or Universities.

"(a) In General.—Notwithstanding section 218 of the Social Security Act, any agreement with a State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time on or after January 1, 1999, and on or before March 31, 1999, so as to exclude service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

"(b) Effective Date of Modification.—Any modification of an agreement pursuant to subsection (a) shall be effective with respect to services performed after June 30, 2000.

"(c) Irrevocability of Modification.—If any modification of an agreement pursuant to subsection (a) terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Commissioner of Social Security and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university."

Statutory Authority to Exclude

The student exclusion may be exercised on a Statewide basis or selectively on a coverage group basis. However, before a State may apply this provision of the statute, there must be authority in the State law to exclude student services from coverage. The question of whether the State has such authority should be considered by the appropriate State legal officer.

Action Required to Exercise Exclusion

The statute specifies that the agreements must be modified on or before March 31, 1999. Therefore, States should submit their modifications to SSA as soon as possible so that they may be executed by both the State and SSA by this date. Attached are exhibits of sample modifications that may be used by the States.

Social Security Administration
Office of Program Benefits
Division of Coverage and Support
SSA Pub. No. 16-055

Distribution List: 226

- (iv) by a member of a board, committee, or council of the District of Columbia, paid on a per diem, meeting, or other fee basis, or
- (E) service performed in the employ of the Government of Guam (or any instrumentality which is wholly owned by such Government) by an employee properly classified as a temporary or intermittent employee, if such service is not covered by a retirement system established by a law of Guam; except that (i) the provisions of this subparagraph shall not be applicable to services performed by an elected official or a member of the legislature or in a hospital or penal institution by a patient or inmate thereof, and (ii) for purposes of this subparagraph, clauses (i) and (ii) of subparagraph (C) shall apply;
- (8)(A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 [26 USCS § 3121(r)] is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;
- (B) Service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under section 3121(w) of the Internal Revenue Code of 1954 [26 USCS § 3121(w)], other than service in an unrelated trade or business (within the meaning of section 513(a) of such Code [26 USCS § 513(a)]);
- (9) Service performed by an individual as an employee or employee representative as defined in section 3231 of the Internal Revenue Code of 1954 [26 USCS § 3231];
- (10) Service performed in the employ of—
- (A) a school, college, or university, or
- (B) an organization described in section 509(a)(3) of the Internal Revenue Code of 1954 [26 USCS § 509(a)(3)] if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services in its employ performed by a student referred to in section 218(c)(5) [42 USCS § 418(c)(5)] are covered under the agreement between the Secretary and such State entered into pursuant to section 218 [42 USCS § 418];
- if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;
- (11) Service performed in the employ of a foreign government, (including service as a consular or other officer or employee or a nondiplomatic representative);



- 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year; or
- (v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;
- for purposes of this subparagraph, except as provided in regulations prescribed by the Secretary, the term "retirement system" has the meaning given such term by section 218(b)(4) of the Social Security Act;
- (8)(A) service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under subsection (r) is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;
- (B) service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under subsection (w), other than service in an unrelated trade or business (within the meaning of section 513(a));
- (9) service performed by an individual as an employee or employee representative as defined in section 3231;
- (10) service performed in the employ of—
- (A) a school, college, or university, or
- (B) an organization described in section 509(a)(3) if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services performed in its employ by a student referred to in section 218(c)(5) of the Social Security Act are covered under the agreement between the Commissioner of Social Security and such State entered into pursuant to section 218 of such Act;
- if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;
- (11) service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);
- (12) service performed in the employ of an instrumentality wholly owned by a foreign government—
- (A) if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and
- (B) if the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;
- (13) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law;
- (14)(A) service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (B) service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;
- (15) service performed in the employ of an international organization, except service which constitutes "employment" under subsection (y);
- (16) service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—
- (A) such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,
- (B) the agricultural or horticultural commodities produced by such individual, or the





State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2519/1

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1999 BILL

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- 1 AN ACT ...; **relating to:** social security coverage for students employed at public
2 schools, colleges and universities.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, public employers are required to provide social security coverage to all of their employees. One of the exceptions to this social security coverage requirement involves students. Currently, public employers are not required to provide social security coverage to students if their employment is in a position that does not normally require actual performance of duty for at least 600 hours in each calendar year.

On October 21, 1998, Congress enacted P.L. 105-277, which provides a limited window of opportunity for states to modify their existing social security coverage agreements with the federal government to exclude from social security coverage services performed by students employed by the public school, college or university where they are enrolled and regularly attending classes. In order to qualify for this provision, a state must enact legislation before July 1, 2000, to provide for the exclusion from social security coverage for these students.

This bill creates this legislation. Under the bill, social security coverage is not provided for services performed in the employ of a school, college or university, if the service is performed by a student who is enrolled and regularly attending classes at the school, college or university.

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 40.41 (6) (b) ^X of the statutes is amended to read:

40.41 (6) (b) Services performed by ~~a student or~~ [✓] a member of a board or commission, except members of governing bodies, in a position or office which does not normally require actual performance of duty for at least 600 hours in each calendar year. For purposes of this paragraph, a “board” or “commission” is a body referred to in the statutes as a board or commission.

History: 1981 c. 96; 1987 a. 372; 1989 a. 13

SECTION 2. 40.41 (6) (c) ^X of the statutes is created to read:

40.41 (6) (c) Service performed in the employ of a school, college or university, if the service [✓] is performed by a student who is enrolled and regularly attending classes at the school, college or university.

SECTION 3. Initial applicability.

(1) This act first applies to [✓] services performed by a student in the employ of a school, college or university specified in section 40.41 (6) (c) [✓] of the statutes on July 1, 2000. [✓]

(END)

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